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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,072	09/05/2003	Les Kollegian	DD-P0008	2071
36067	7590	09/09/2004	EXAMINER	
DALINA LAW GROUP, P.C. 7910 IVANHOE AVE. #325 LA JOLLA, CA 92037			GIBSON, ROBERT W	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/605,072

Applicant(s)

KOLLEGIAN ET AL.

Examiner

Robert W. Gibson, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30 and 31 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-13, 16-18, 20-22 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 9, 14, 15, 19, 23, 24, 28 and 29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/5/03 and 1/23/04 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, line 2 "at least one further" should be - said at least one further--.

In claim 3, line 1 "said disk width slot" has no antecedent.

In claim 4, line 1 "said disk width slot" has no antecedent.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 5, 8, 10-13, 16, and 18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cotutsca '123.

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-7, and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cotutsca '123.

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim '445 in view of Cotutsca.

It would have been obvious to modify the slots of Kim to hold items of varying thickness such as disks and cases, as taught by Cotutsca.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gelardi '953 in view of Cotutsca.

It would have been obvious to modify the slots of Kim to hold items of varying thickness such as disks and cases, as taught by Cotutsca. The orientation of the mailer is a matter of choice and design.

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8. Claim 25 is rejected under 35 U.S.C. 102(a) as being clearly anticipated by Gelardi '953.

9. Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gelardi '953.

The orientation of the mailer is a matter of choice and design.

10. Claims 9, 14-15, 19, 23-24, 28-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 30 and 31 are allowed.

12. The patents to Hunt, McConnaughey et al., Kappel et al., Goltz, Yeh, Goble, Malik, Hummel et al., Fitzsimmons et al, Smith, Sutton, and Hansen are cited to show similar structures.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to

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Robert W. Gibson, Jr. whose telephone number is 703-308-2168. The examiner can normally be reached on M-F 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert W. Gibson, Jr.
Primary Examiner
Art Unit 3634